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PROTEST *taken judicially by*
ANDREW CHALMER *Writer in Edin-*
burgh, at the second Diet of his Trial
before the Baillies of Edinburgh, for
framing and publishing an Historical
Account of the City's Duty on Ale, &c.
--- While the Baillies were still delibe-
rating on the Sustaining or Repelling of
the Declinature which Mr. Chalmer
proponed against them.

WHEREAS I am conveyen before the Honourable Baillies
of *Edinburgh*, Sheriffs depute and Justices of his Majesty's
Peace within the said City, and Liberties thereof, upon a
Complaint at the Instance of *Robert Gray* Procurator-fiscal of the
said City; charging me with having framed, printed and published,
An Historical Account of the City's Duty on Ale, and of the Ma-
agement thereof, &c. (which he is pleased to term a *defamatory or in-*
jurious Libel) and with having therein represented the Administra-
tion of the Magistrates and Town-Council of *Edinburgh*, that have
been since the Year 1710 downwards, and of the Magistrates and
Council that now are, as destructive of the publick Interest of the
City, and of the Burgeses and Community; and concluding, on
Supposition of these Things being proven, That I ought to be pu-
nished in my Person and Goods with the Pains of Law: **AND**
WHEREAS, upon Occasion of and in the Debate, which was held
the 8th of *April* instant, touching the Declinature then proponed by
me against the Competency of the said Baillies for being my Judges
in this Case; the Council for the nominal Prosecutor admitted, That
the Magistrates and Council of *Edinburgh* were the true and real
Prosecutors; and, pleading in their Names, did set forth and pro-
fess, That the Prosecution was commenced, and to be carried on,
not with a View to inflict any personal Punishment on me, or much
to affect my Goods, but solely or principally in order to bring out a
Vindication of the Administration of the City's Affairs or Revenue, said
to be maliciously misrepresented by me: **AND WHEREAS** I have

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not only heretofore uniformly declared, but do again hereby declare, myself willing and ready to join Issue with the Procurator-Fiscal, the Magistrates, or any Person else, upon the Truth or Falshood of every, all, or any, of them aterial Assertions in Fact, contained in the *Historical Account* aforesaid, either before the Lords of Session in a judicial Way, or before any Number of good and qualified Burgeses of Property, who have never born Office in the Councils of this City in an extra-judicial Way (though I cannot submit myself in this Cause to the Power and Controul of Persons who are truly my Parties in it, as to the Means of Proof which I may have Occasion for; nor to their Judgment upon the Import of these Proofs, or the Construction of the Words of the *Historical Account*, from which the Charges, general or particular, made against me by the Complaint may be pretended to be made out) AND WHEREAS it is obvious, That by the Magistrates joining Issue with me on the Truth or Falshood of the Facts, in either of the Ways aforesaid, the End which they pretend to have in View will be attained (if it is to be attained at all) without any great Charge or Expence to either Side; while the Expence must run very high according to the Course begun and proposed to be prosecuted by the Magistrates, and the Necessity which I am thereby put under to propone and insist upon my legal Defences for bringing my Cause before proper and impartial Judges, and protecting myself against those Hardships, which, notwithstanding the Profession of their Council, I have good Reason to believe some of the Magistrates have threatned, and intend to subject me to, if I am in their Power. NOW, in Case the Baillies, before whom the Procurator-Fiscal has brought his foresaid Complaint against me, shall take upon them to repel my Declinature, and sustain themselves as my Judges in this Cause; I hereby PROTEST, That they may be and shall be liable, not only to the Pains, Penalties and Disabilities prescribed by the Laws in such Behalf made and provided, but also in Payment to me of all Cost, Skaith, Damage and Expence which I may sustain or incur through such their partial and illegal Procedure: AND, in respect that the Matter in Question is at present, and until a final Determination on the Merits must be considered as, personal between the Magistrates and Council, or such of them as think themselves injured by any Thing set forth or said in the *Historical Account*, and me, on the Supposition of my being the Author and Publisher of it; I do for myself, as a Burges of, and Heretor and Householder in, this City, and in Name and Behalf of the Community, and of all those Burgeses, or other Members thereof, who shall adhere to me, PROTEST, That the Community of this City be not burdened, nor the Com-

thereof dilapidated, for defraying the Expence that
 has been (in a most extravagant, useles and unjustifiable Degree) or
 may be laid out in the Prosecution of this personal Quarrel of
 some of the Magistracy or Council against me, for standing up for the
 Community against them; That neither the Treasurer of the City,
 nor any other Person, who by his Office or Engagements is or shall be-
 come possessed of any Part of its Revenues, do presume or take on him to
 depurle, give out or advance any of the City's Monies for carrying on this
 Prosecution, on pretence of the Authority of any Act or Acts of the Coun-
 cil already past, or which may be past during the Dependence of the
 Question: And that, if the Treasurer, or any other of the Persons
 aforesaid, has already given away any of the City's Money for that
 Purpose, he do retain, keep and withhold any Salaries or Fees which
 may be payable out of the City's Revenue to any Member of the
 Council, for answering and reimbursing to the City what he may have
 so laid out heretofore: AND AS it may be said, and is perhaps true,
 That in Case the Magistrates and Council do fairly and openly enter
 into a Disquisition of the Facts, touching their Administration of the
 City's Revenue, and be thereupon acquitted of, and justified from, the
 Accusations which they say are made against them, they ought in Law
 and Justice to be kept *indemnes* of the Expence thereby incurr'd; I
 hereby *voluntarily subject* myself, in that Case and upon that Suppo-
 sition, to all such reasonable Charges and Expences as shall be truly
 and necessarily disbursed in Relation to that Disquisition, or in Rela-
 tion to their procuring their Acquittal and Justification upon the Issue
 thereof; and am willing and ready to assign (to any proper Depositary
 to be pitched on) an unquestionable Security of the Extent of £. 800
Sterling for answering my said Engagement. BUT IF the Magi-
 strates and Council shall go on in their Attempt, to screen themselves
 from such fair Disquisition of Facts and impartial Judgment thereon,
 either by continuing to insist that some of themselves should be the
 Judges, or by pleading, when before other Judges, that the Historical
 Account is a Libel, even tho' all the Facts in it were true, and that
 the Author can't be permitted to prove them, I do PROTEST, that
 neither the Community (against the Interests and Rights of the whole
 Members of which they will then most plainly be acting) nor I, in
 Consequence of my foresaid Engagement, may be, or shall be liable
 to any Expence incurr'd by such Procedure: But that the Magistrates
 and other Members of Council, who have concurred or shall concur
 in such screening Schemes and Doings, or who have connived and shall
 connive at them, by not openly protesting against and dissenting from
 the same, shall be personally liable to such Expence (as well as in
 my Expences and Damages) without Pretence of Relief from or off
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the Community of Common Good. AND FINALLY, that the Council of Edinburgh shall give Authority or Command to the Mayor of the City, or any other Person possessed of, or Disposed of any Part of its Revenue to apply, or the Treasurer of any other Person aforesaid, shall apply, any Part of the said Revenue for defraying the Expence of this Prosecution against me, while it is in Dependence or before the End and final Result thereof, I do PROTEST, that the so doing shall be deemed, held and taken to be an illegal Act of Power, calculated for overwhelming and oppressing a private Citizen with the Money of the Community (on a Question upon the Equity of which the Administrators thereof will not run the Risque of advancing their own) contrary to its Interest, and on Purpose to discountenance all future Attacks upon its Administrators, let their Administration be ever so pernicious and destructive to it; and also an Act of Male-Administration of the Offenders in their respective Offices, and of Injustice to the Corporation already so heavily loaded, if the Showings or Allegations of the Council itself be true, as that it has not Funds sufficient for paying the Annualrents of its Debts, and supporting the ordinary Charge of its Administration and Police. And upon the Premises, I take Instruments judicially, not only in the Hands of the Clerk of Court officiating to the Honourable Baillies, but also in the Hands of *George Aitken* Notar Publick. At *Edinburgh* this 13th Day of *April* 1752.

AND. CHALMER.

GEORGE AITKEN, N. P.

THOSE who will, after this, believe that the *Historical Account* is false in Fact, till it be proved to be so, are not worth the Author's minding. — Those who are resolved to be deceived must remain deceived. — And as to the Calumnies thrown out against the Author, by the Instigator of the Prosecution in Dependence, and his Emissaries, which are extraneous to the Matter of it, with respect to an Account marked with Initials, a private Letter to the Gentlemanny Propaler of it, a Disappointment of Place, &c. when the original Calumniator pleases to set forth any of them in such a Way as that they can be fixed and understood, his Unfairness shall be exposed in a clear and plain View: And till then the Person, thus persecuted, will not doubt of having the good Opinion of every one whose Opinion he can think worth valuing, these treacherous underhand Dealings notwithstanding.

N. B. What comes after the Subscriptions is no Part of what was given in to Court.



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